

July 3, 2014

Mr. Donald Simpson
Wyoming State Director
Bureau of Land Management
P.O. Box 1828
Cheyenne, WY 82003-1828

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Dear Mr. Simpson:

The Bureau of Land Management (BLM) Resource Advisory Council (RAC), by a unanimous vote on June 27, 2014, recommended measures to increase transparency in the National Environmental Policy Act (NEPA) process to enhance cooperation without lengthening the process.

Specifically, the recommendations would increase public transparency during meetings conducted in the NEPA review process and promote transparency between the BLM, cooperators and the general public.

These meetings are for the cooperating agencies and the BLM to properly conduct NEPA analysis and planning according to statute, regulation and guidance. The RAC fully respects this relationship and recognizes that some meetings or portions of meetings will necessarily be closed to the public, for example, when discussing pre-decisional, proprietary, or privileged information. However, we believe there can be times within the planning process when information can be presented to the cooperators with the public being able to observe and participate in a question-and-answer time. We realize these times will have to be consistent with existing law, regulation, and guidance, but believe an informed public, and cooperating agencies will lead to more substantive comments, a better understanding of the planning process, and greater local influence in the outcome. An associated benefit can be a more knowledgeable, and productive interaction between the public, and their elected officials to bring local knowledge, history and concerns into the planning process.

In looking at the federal planning process as a whole, we see three possible specific times when it is important for information about a plan, plan revision, or project proposal to be conveyed to cooperating agencies and the public. These are pre-scoping, after a range of alternatives is drafted, and after the preferred draft environmental impact statement (EIS) comments are analyzed. These times could be at a cooperators' meeting or a specially designed meeting involving the BLM, cooperators and the public. This recommendation will be at the discretion of the affected BLM district manager, and only applies if the cooperating agency and the proponent agree to this increase general public involvement. In addition, this will apply only if the additional tasks will not significantly add to the originally agreed upon time schedule for the planning document or project schedule.

PRE-SCOPING – Since scoping comments set the stage for many of the planning activities, we believe that a full public presentation of the factual information that will be involved in the planning process should be conducted. This information will help the public write substantive comments and provide cooperators an early opportunity to not only comment, but to begin gathering information for their participation in the planning process. It is envisioned that on a resource management plan the basis for this public presentation would be the analysis of the management situation and for a project the basis would be the specific proposal. This would put a responsibility on the agency to stay current on inventories, management changes to existing resource management plans and emerging issues. The proposed plan implementation matrix strategy that is currently emerging in many field offices should be most helpful. This information would be formally presented in a question-and-answer presentation during

the normal public meetings conducted during the scoping period, and be informational, not a public land issue debate.

AFTER A RANGE OF ALTERNATIVES – This public touch point, again, would be a question-and-answer presentation. Its purpose would be to assure the public and the cooperators that a reasonable range of alternatives is being proposed, and that the agency has made an honest effort to include concerns expressed during scoping. One of the most prevalent complaints from the public, and frequently, cooperators, is that their comments drop into a black hole and are never acknowledged. This particular public touch point, conducted during a regularly scheduled cooperator meeting, could help address this particular concern. It would have to be made clear that commenting is not a vote on a preferred alternative, nor would this be a debate on each issue. Also, there may be some legal direction needed, if this idea is pursued, as to protecting pre-decisional information. This again opens the opportunity to enable substantive factual interaction between cooperators and the public.

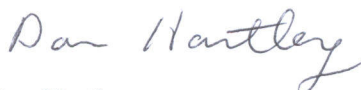
AFTER THE COMMENTS ON THE PREFERRED DRAFT – After the agency has compiled and analyzed comments on the draft EIS, the agency, at a regularly scheduled cooperator's meeting, could host a cooperators' meeting, open to the public, to present a summary of the comments and any issues missed in the planning process to this point. Here again the agency would have an opportunity to assure the cooperators and public are being listened to.

The Cooperating Agency Desk Guide allows for the agency and cooperating agencies to agree upon other public transparency opportunities. The above suggestions are not meant to eliminate or supplant these potential meetings.

As cooperators independently create more communication opportunities with their constituents and local communities, it would be helpful if the BLM would assist in ways to make these meetings more effective and fruitful. Further, a clear definition of what is and is not pre-decisional information should be determined.

In closing, let us reiterate that we believe cooperator meetings are for the agency and cooperators to work together to create workable federal plans and may need to be closed to the public. However, there appears to be opportunity for the BLM to consider, on a case-by-case basis, providing the public more information on proposed plans, and to have a small level of assurance the agency is hearing and addressing their comments. For project specific NEPA analyses, the BLM should, consistent with the agreed upon project schedule, consider incorporating these recommendations into the process. There will need to be some legal determinations as to what can and cannot be done, but greater transparency is important in creating the best plan. One of the lingering concerns is to what level of public "transparency" is permissible before there could be a determination that there has been a FACA violation. We do not want to lose opportunities for public transparency because of a legal violation, nor do we want to diminish the statutory authority of cooperating agencies to participate in the NEPA processes.

These recommendations are respectfully given to you.



Don Hartley
RAC Chairman